

§ 48.4081-4

26 CFR Ch. I (4-1-11 Edition)

blended taxable fuel is sold for off-highway business use, which is a nontaxable use as defined in section 4082(b), the sale is not exempt from tax because the blended taxable fuel does not satisfy the dyeing requirements of § 48.4082-1. Tax is computed on 1,000 gallons, which is the difference between the number of gallons of blended taxable fuel R sells (5,000) and the number of gallons of previously taxed taxable fuel used to produce the blended taxable fuel (4,000).

(C) *Liability for tax.* R, as the blender, is liable for this tax under paragraph (g)(2)(i) of this section. W is jointly and severally liable for this tax under paragraph (g)(2)(ii) of this section because the blended taxable fuel is produced using an untaxed liquid that W sold as undyed diesel fuel (that is, as diesel fuel that was taxed under section 4081).

Example 2. (i) *Facts.* W, a wholesaler distributor of petroleum products, buys 7,000 gallons of diesel fuel at a terminal rack. The diesel fuel is delivered into a tank trailer. Tax is imposed on the diesel fuel under § 48.4081-2 when the diesel fuel is removed at the rack. W then goes to another location where X, the operator of a chemical plant, sells W 1,000 gallons of an untaxed liquid (a liquid described in § 48.4081-1(c)(1)(i)(B)). However, X's invoice to W states that the liquid is undyed diesel fuel. This liquid is delivered into the tank trailer already containing the 7,000 gallons of diesel fuel. The resulting 8,000 gallon mixture is suitable for use as a fuel in a diesel-powered highway vehicle because it has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle. The mixture does not satisfy the dyeing requirements of § 48.4082-1. W sells the mixture to R, a retailer of petroleum products, and delivers the mixture into a storage tank at R's retail facility. R sells the mixture to its customers.

(ii) *Analysis—(A) Production of blended taxable fuel.* W is a blender within the meaning of § 48.4081-1 because W has produced blended taxable fuel, as defined in § 48.4081-1, by mixing 1,000 gallons of a liquid that has not been taxed under section 4081 with 7,000 gallons of diesel fuel that has been taxed under section 4081. The mixing occurs outside of the bulk transfer/terminal system and the resulting product is diesel fuel because it is suitable for use as a fuel in a diesel-powered highway vehicle. Thus, R has bought blended taxable fuel.

(B) *Imposition of tax.* Under paragraph (g)(1) of this section, tax is imposed on W's sale of the 8,000 gallons of blended taxable fuel to R. Tax is computed on 1,000 gallons, which is the difference between the number of gallons of blended taxable fuel W sells (8,000) and the number of gallons of previously taxed taxable fuel used to produce the blended taxable fuel (7,000). No tax is imposed on R's subsequent sale of the blended taxable fuel be-

cause tax is imposed only with respect to a removal or sale by the blender.

(C) *Liability for tax.* W, as the blender, is liable for this tax under paragraph (g)(2)(i) of this section. X is jointly and severally liable for this tax under paragraph (g)(2)(ii) of this section because the blended taxable fuel is produced using an untaxed liquid that X sold as undyed diesel fuel (that is, as diesel fuel that was taxed under section 4081). R has no liability for tax because R is not a blender and did not sell any untaxed liquid as a taxed taxable fuel. R only sold taxed taxable fuel, the blended taxable fuel bought from W.

(h) *Rate of tax.* For the rate of tax generally imposed under this section, see section 4081(a). For the rate of tax on gasohol and on gasoline removed or entered for gasohol production, see § 48.4081-6.

(i) *Exemptions.* For exemptions from the taxes imposed under this section, see §§ 48.4081-4 (relating to gasoline blendstocks), 48.4082-1 (relating to dyed diesel fuel and dyed kerosene), 48.4082-5 (relating to diesel fuel and kerosene used in Alaska), 48.4082-6 (relating to aviation-grade kerosene), and 48.4082-7 (relating to kerosene used for a feedstock purpose).

(j) *Effective/applicability date.* This section is applicable January 1, 1994, except that paragraphs (c)(2)(ii) through (iv) of this section are applicable to entries of taxable fuel after September 27, 2004.

[T.D. 8659, 61 FR 10455, Mar. 14, 1996, as amended by T.D. 8879, 65 FR 17156, Mar. 31, 2000; T.D. 9051, 68 FR 15941, Apr. 2, 2003; T.D. 9145, 69 FR 45588, July 30, 2004; T.D. 9346, 72 FR 41223, July 27, 2007]

§ 48.4081-4 Gasoline; special rules for gasoline blendstocks.

(a) *Overview.* This section provides rules exempting from tax certain removals, entries, and sales of gasoline blendstocks. Generally, under prescribed conditions, tax is not imposed on gasoline blendstocks that are not used to produce finished gasoline or that are received at an approved terminal or refinery.

(b) *Nonbulk removals and entries of gasoline blendstocks not used to produce gasoline—(1) Removals and entries not in connection with sales.* Tax is not imposed under § 48.4081-2(b), § 48.4081-3(b)(1)(ii), or § 48.4081-3(c)(1)(ii) on the removal or entry of gasoline

blendstocks not in connection with a sale if—

(i) The person otherwise liable for tax under § 48.4081-2(c)(1) (the position holder), § 48.4081-3(b)(3) (the refiner), or § 48.4081-3(c)(2) (the enterer) is a taxable fuel registrant; and

(ii) Such person does not use the gasoline blendstocks to produce finished gasoline.

(2) *Removals and entries in connection with sales.* Tax is not imposed under § 48.4081-2(b), § 48.4081-3(b)(1)(ii), or § 48.4081-3(c)(1)(ii) on the removal or entry of gasoline blendstocks in connection with a sale if—

(i) The person otherwise liable for tax under § 48.4081-2(c)(1) (the position holder), § 48.4081-3(b)(3) (the refiner), or § 48.4081-3(c)(2) (the enterer) is a taxable fuel registrant; and

(ii) At the time of the sale, such person has an unexpired certificate (described in paragraph (e) of this section) from the buyer and has no reason to believe any information in the certificate is false.

(3) *Tax on sales after certain nonbulk removals or entries—(i) In general.* If paragraph (b) (1) or (2) of this section applies to the removal or entry of gasoline blendstocks, tax is imposed on any sale of such blendstocks unless, at the time of the sale, the seller—

(A) Has an unexpired certificate (described in paragraph (e) of this section) from its buyer; and

(B) Has no reason to believe any information in the certificate is false.

(ii) *Liability for tax.* The seller is liable for the tax imposed under this paragraph (b)(3).

(iii) *Rate of tax.* For the rate of tax, see section 4081.

(c) *Nonbulk removals and entries of gasoline blendstocks received at an approved terminal or refinery.* Tax is not imposed under § 48.4081-2(b), § 48.4081-3(b)(1)(ii), or § 48.4081-3(c)(1)(ii) on the removal or entry of gasoline blendstocks that are received at a terminal or refinery if the person otherwise liable for tax under § 48.4081-2(c)(1) (the position holder), § 48.4081-3(b)(3) (the refiner), or § 48.4081-3(c)(2) (the enterer)—

(1) Is a taxable fuel registrant;

(2) Has an unexpired notification certificate (described in § 48.4081-5) from the operator of the terminal or refinery

where the gasoline blendstocks are received; and

(3) Has no reason to believe that any information in the certificate is false.

(d) *Bulk transfer to a registered industrial user.* Tax is not imposed under § 48.4081-3(e)(1) if, upon the removal of gasoline blendstocks from a pipeline or vessel, the gasoline blendstocks are received by a taxable fuel registrant that is an industrial user.

(e) *Certificate—(1) In general.* The certificate to be provided by a buyer of gasoline blendstocks consists of a statement that is signed under penalties of perjury by a person with authority to bind the buyer, is in substantially the same form as the model certificate provided in paragraph (e)(3) of this section, and contains all information necessary to complete such model certificate. A new certificate must be given if any information in the current certificate changes. The certificate may be included as part of any business records normally used to document a sale. The certificate expires on the earliest of the following dates:

(i) The date one year after the effective date of the certificate (which may be no earlier than the date it is signed).

(ii) The date a new certificate is provided to the seller.

(iii) The date the seller is notified by the Internal Revenue Service or the buyer that the buyer's right to provide a certificate has been withdrawn.

(2) *Withdrawal of right to provide certificate.* The Internal Revenue Service may withdraw the right of a buyer of gasoline blendstocks to provide a certificate under this paragraph (e) if such buyer uses gasoline blendstocks to which a certificate applies in the production of finished gasoline or resells the gasoline blendstocks without obtaining a certificate from its buyer. The Internal Revenue Service may notify any seller to whom the buyer has provided a certificate that the buyer's right to provide a certificate has been withdrawn.

(3) *Model certificate.*

CERTIFICATE OF PERSON BUYING GASOLINE BLENDSTOCKS FOR USE OTHER THAN IN THE PRODUCTION OF FINISHED GASOLINE

(To support tax-free sales under section 4081 of the Internal Revenue Code)

Name, address, and employer identification number of seller

The undersigned buyer ("Buyer") hereby certifies the following under penalties of perjury:

The gasoline blendstocks to which this certificate relates will not be used to produce finished gasoline.

This certificate applies to the following (complete as applicable):

If this is a single purchase certificate, check here _____ and enter:

1. Invoice or delivery ticket number _____
2. _____ (number of gallons) of _____ (type of gasoline blendstocks)

If this is a certificate covering all purchases under a specified account or order number, check here _____ and enter:

1. Effective date _____
2. Expiration date _____

(period not to exceed 1 year after the effective date)

3. Type (or types) of gasoline blendstocks _____

4. Buyer account or order number _____

Buyer will not claim a credit or refund under section 6427(h) of the Internal Revenue Code for any gasoline blendstocks covered by this certificate.

Buyer will provide a new certificate to the seller if any information in this certificate changes.

If Buyer resells the gasoline blendstocks to which this certificate relates, Buyer will be liable for tax unless Buyer obtains a certificate from the purchaser stating that the gasoline blendstocks will not be used to produce finished gasoline and otherwise complies with the conditions of § 48.4081-4(b)(3) of the Manufacturers and Retailers Excise Tax Regulations.

Buyer understands that if Buyer violates the terms of this certificate, the Internal Revenue Service may withdraw Buyer's right to provide a certificate.

Buyer has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn. In addition, the Internal Revenue Service has not notified Buyer that the right to provide a certificate has been withdrawn from a purchaser to which Buyer sells gasoline blendstocks tax free.

Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Signature and date signed _____

Printed or typed name of person signing _____

Title of person signing _____

Name of Buyer _____

Employer identification number _____

Address of Buyer _____

(f) *Effective date.* This section is effective January 1, 1994.

[T.D. 8421, 57 FR 32424, July 22, 1992; 57 FR 39421, Aug. 31, 1992, as amended by T.D. 8659, 61 FR 10457, Mar. 14, 1996]

§ 48.4081-5 Taxable fuel; notification certificate of taxable fuel registrant.

(a) *Overview.* This section sets forth requirements for the notification certificate under §§ 48.4081-2(c)(2)(ii), 48.4081-3(c)(2)(iii) and (iv), 48.4081-3(d)(2)(iii), 48.4081-3(e)(2)(iii), 48.4081-3(f)(2)(ii), and 48.4081-4(c) to notify another person of the taxable fuel registrant's registration status.

(b) *Certificate—(1) In general.* The certificate to be provided by a taxable fuel registrant consists of a statement that is signed under penalties of perjury by a person with authority to bind the registrant, is in substantially the same form as the model provided in paragraph (b)(2) of this section, and contains all information necessary to complete such model. A new certificate must be given if any information in the most recently provided certificate changes. The certificate may be included as part of any business records normally used to document a sale. The certificate expires on the earlier of the following dates:

(i) The date the registrant provides a new certificate.

(ii) The date the recipient of the certificate is notified by either the Internal Revenue Service or the registrant that the registrant's registration has been revoked or suspended.

(2) *Model certificate.*

NOTIFICATION CERTIFICATE OF TAXABLE FUEL REGISTRANT

Name, address, and employer identification number of person receiving certificate

The undersigned taxable fuel registrant ("Registrant") hereby certifies under penalties of perjury that Registrant is registered by the Internal Revenue Service with registration number _____ and that Registrant's registration has not been revoked or suspended by the Internal Revenue Service.